



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No: 6998-21
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMC

Ref: (a) Title 10 U.S.C. § 1552
(b) MCM, 2019
(c) DoDI 1304.33
(d) DepO 1100.4C
(e) MCO 1900.16 (MARCORSEPMAN)
(f) MCO P1400.32D (PROM MAN)
(g) MCO 1070/12K (IRAM)

Encl: (1) DD Form 149 w/enclosures
(2) Administrative Remarks (Page 11) counseling entry of 25 Mar 20
(3) Petitioner rebuttal statement of 7 Apr 20
(4) Administrative Remarks (Page 11) promotion restriction entry of 25 Mar 20
(5) Admin Seps Board Findings Worksheet, 1000-35 Legal of 26 May 20
(6) NAVMC 10835A, USMC Fitness Report of 1 Apr 19 – 31 Mar 20

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to remove an Administrative Remarks (Page 11) counseling entry of 25 March 2020 and the associated rebuttal statement dated 7 April 2020. Enclosures (2) and (3).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 17 March 2022, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of the naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. On 25 March 2020, Petitioner was issued a Page 11 "processing" counseling entry concerning his violation of Article 92, UCMJ, DoDI 1304.33 and Depot Order 1100.4C, in accordance with references (b), (c), and (d) by engaging in a personal relationship with a member of the delayed entry program. Petitioner was also advised that he was being processed

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for administrative separation, per paragraph 6210.6 of reference (e). Petitioner acknowledged and signed the entry. Petitioner also chose to make a rebuttal statement which is included in his application and maintained in his official military personnel file (OMPF). Petitioner was also issued a Page 11 promotion restriction to the rank of Staff Sergeant for a period of 12 months in accordance with reference (f). Enclosures (2), (3) and (4).

c. On 26 May 2020, Petitioner was the subject of an administrative discharge board (ADB) hearing and the board members determined by a majority vote that a preponderance of the evidence does not prove the acts of or omissions alleged. The board members recommended the Petitioner be retained. Enclosure (5).

d. Petitioner was issued an adverse Annual Fitness Report (Fitrep) for the reporting period of 1 April 2019 to 31 March 2020. Section G3, "Judgement" attribute, was marked adverse and included the following statement: "*MRO was found to have engaged in an inappropriate relationship with a Poolee. After an inquiry, MRO received Derogatory Material.*" The Reporting Senior's (RS) Section I comments were of derogatory nature and included the following directed comment: "*MRO has been relieved for cause as an outcome of an inquiry and issuance of a 6105 in which he was found to have engaged in an inappropriate relationship with a Poolee. MRO is not recommended for retention.*" The Reviewing Officer's Section K comments concurred with the RS's assessment and included the following comment: "*After reviewing the Preliminary Inquiry (PI) into the facts and circumstances of this case, it was deemed appropriate to submit a relief for cause due to lack of trust and confidence.*" Petitioner acknowledge the adverse nature of the Fitrep and submitted a rebuttal statement that reiterates his Page 11 rebuttal. Enclosure (6).

e. Petitioner contends the evidence and facts presented do not prove any acts or omissions alleged in the entry. Petitioner further contends that the derogatory paperwork was given to him prior to any evidence supporting his rebuttal, and the ADB agreed that there was no bases for the allegation in the notification.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting partial relief. In this regard, the Board noted that the Petitioner was retained in the U.S. Marine Corps at the recommendation of the ADB. The Board further noted that the Commanding Officer (CO) correctly issued the Petitioner a Page 11 counseling entry at the time of issuance pending administrative processing for engaging in a personal relationship with a Poolee; however, since the result did not end in discharge, determined the entry is not authorized in accordance with references (e) and (g). The Board thus concluded that the Page 11 counseling entry is in error, and the language informing the Petitioner that he was being processed for administrative separation shall be stricken from the Page 11 entry. The Board further concluded that the "redacted" Page 11 entry shall remain in the Petitioner's OMPF based on the CO's authority to issue the Page 11 and the results of the PI that determined Petitioner was involved in an inappropriate relationship in violation of references (b)-(d).

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Similarly, with regards to the Page 11 promotion restriction, the Board determined that the CO correctly issued the Petitioner the entry in accordance with reference (g), based on the PI conducted that substantiated the allegations against the Petitioner. The Board thus concluded that the Page 11 promotion restriction entry shall remain in the Petitioner's OMPF.

RECOMMENDATION

In view of the above, the Board directs the following corrective action.

Petitioner's naval record be corrected by redacting the following language from enclosure (2), his Page 11 counseling entry dated 25 March 2020:

"I understand that I am being processed for the following judicial or adverse administrative action: Administrative separation, per paragraph 6210.6 of MCO 1900.16F due to Commission of a Serious Offense."

No further action taken

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.
5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

4/11/2022

[REDACTED]
Executive Director
[REDACTED]